

ORIGINAL

**FILED**  
DISTRICT COURT OF GUAM  
NOV - 1 2005 *R*

MARY L.M. MORAN  
CLERK OF COURT

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IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

10 NOREEN J. NAPUTI, ) CIVIL CASE NO. 05-00011  
11 Plaintiff, )  
12 vs. )  
13 DEPARTMENT OF THE NAVY, ) ANSWER OF THE  
14 UNITED STATES OF AMERICA; ) UNITED STATES  
15 JOHN DOE INSURANCE CARRIER, )  
16 TO BE NAMED AFTER DISCOVERY; )  
17 and DOES 1-10, INCLUSIVE, )  
Defendants. )

Defendant UNITED STATES Of AMERICA and the DEPARTMENT OF THE NAVY, hereby answer the Complaint as follows:

1. Neither DENIES or ADMITS as this is a legal conclusion.
2. ADMITS.
3. Paragraph 3, ADMITS but alleges the claim was not filed until June 18, 2004. Second sentence ADMITS, but alleges the six months expired on December 18, 2004. Third sentence, : ADMITS nor DENIES, as this is a conclusion of law.
4. DENIES for lack of sufficient information.
5. Neither ADMITS nor DENIES, as no facts are alleged, only conclusions of law.
6. DENIES.

1           7. Neither ADMITS nor DENIES, as no facts are alleged, only conclusions of law.  
2           8. Neither ADMITS nor DENIES, as no facts are alleged, only conclusions of law.  
3           9. Neither ADMITS nor DENIES, as no facts are alleged, only conclusions of law.  
4           10. Defendant repeats and realleges each and every previous paragraph of this Complaint  
5 as though fully set forth here at length.

6           11. ADMITS.

7           12. Neither ADMITS nor DENIES, as no facts are alleged, only conclusions of law.

8           13. DENIES.

9           14. DENIES.

10           15. DENIES.

11           16. DENIES.

12           17. DENIES.

13           18. DENIES.

14           19. DENIES.

15           20. Defendant repeats and realleges each and every previous paragraph of this Complaint  
16 as though fully set forth here at length.

17           21. DENIES.

18           22. DENIES.

19

20           **PROPOSED AFFIRMATIVE DEFENSES**

21           1. The Complaint fails to state a claim upon which relief can be granted to Plaintiff  
22 against defendant United States under the Federal Tort Claims Act (FTCA), 28 U.S.C., §§ 2671,  
23 et seq., for the reason that if the defendant United States were a private person, it would be liable  
24 to the Plaintiff under Guam law.

25           2. No negligent act or failure to act by the United States or its agents or employees was  
26 the actual cause or proximate cause of the injuries or damage alleged in the Complaint or  
27 otherwise.

28           3. To the extent Plaintiff's Complaint addresses allegations of negligence not raised in

1 Plaintiff's administrative claim, Plaintiff's Complaint is barred by 28 U.S.C., § 2675 (a)

2       4. Plaintiff's claims are subject to the limitations of the Federal Tort Claims Act contained  
3 in 28 U.S.C. § 2680.

4 5. Any injury or injuries sustained by Plaintiff were caused in whole or in part by and  
5 through the carelessness and negligence of Plaintiff.

6        6. A negligent or wrongful act or omission on the part of an employee or agent of the  
7        Untied states did not proximately cause the injuries and damages alleged by Plaintiff.

8       7. Plaintiff's recovery, if any, is limited to the amount of the claim that Plaintiff presented  
9 administratively. 28 U.S.C. § 2675(b).

10       8. Defendant reserves the right to amend its Answer with additional defenses of  
11 which it may become aware as discovery progresses and to raise any other matter  
12 constituting an avoidance or affirmative defense.

13       **WHEREFORE**, having fully answered all counts of the Complaint, Defendant,  
14 United States of America, prays that Plaintiff take nothing by way of her Complaint  
15 against it, that the same be dismissed, and that judgment be awarded in favor of the  
16 Defendant, United States of America, together with costs and such other and further relief  
17 as the Court deems appropriate in this case.

18 SUBMITTED this 30<sup>th</sup> day of October, 2005.

LEONARD M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

BY:

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8 IN THE UNITED STATES DISTRICT COURT

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11 NOREEN J. NAPUTI,

) CIVIL CASE NO. 05-00011

12 ) Plaintiff,

13 ) vs.

14 ) DEPARTMENT OF THE NAVY,

) CERTIFICATE OF SERVICE

15 ) UNITED STATES OF AMERICA;

16 ) JOHN DOE INSURANCE CARRIER,

17 ) TO BE NAMED AFTER DISCOVERY;

and DOES 1-10, INCLUSIVE

) Defendants.

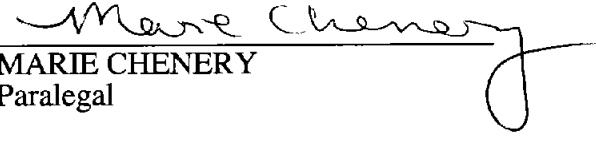
18 I, Marie Chenery, working in the U.S. Attorney's Office, hereby certify that a copy of the

19 Answer of the United States in the above-captioned case was served on Mark Williams, Esq. via

20 hand delivery at the Law Office of Mark E Williams, P.C., 201 Iris building, 315 Marine Corps

21 Drive, Tamuning, GU 96913.

22 Dated: November 1, 2005

23   
24 MARIE CHENERY  
25 Paralegal